

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GERARDO HERNANDEZ,

No. C 12-03257 WHA

Plaintiff,

v.

**ORDER DENYING MOTION TO
DISMISS; GRANTING MOTION
FOR LEAVE TO FILE AN
AMENDED COMPLAINT**

TAQUERIA EL GRULLENSE; JUAN
FRANCIS GAMEZ GARCIA dba
TAQUERIA EL GRULLENSE; OSCAR
PANG CHENG LIU and CHU CHING
LIU as Trustees of the OSCAR PANG
CHENG LIU and CHU CHING LIU
TRUST; and DOES 1-10 inclusive,

Defendants.

Plaintiff filed a complaint against a number of defendants alleging violations of the Americans with Disabilities Act and state laws regarding access to public accommodations or facilities at a restaurant located at 1280 El Camino Real in Redwood City. On September 5, 2012, defendants Oscar Pang-Cheng Liu and Chu-Ching Kuo Liu moved to dismiss on the ground that the complaint incorrectly named defendants in their capacity as trustees of the Oscar Pang Cheng Liu and Chu Ching Liu Trust. Defendants allege that no such entity exists. In support of the motion, defendant Mr. Liu filed a declaration with exhibits to show that the property that is the subject of the action is held by the Liu Family Trust.

Plaintiff filed a statement of non-opposition to defendants' motion on September 19. On the same day, plaintiff filed a motion for leave to file a first amended complaint. Plaintiff's proposed complaint removes named defendants Oscar Pang Cheng Liu and Chu Ching Liu as

1 trustees of the *Oscar Pang Cheng Liu and Chu Ching Liu Trust* and adds as defendants Oscar
2 Pang-Cheng Liu and Chu-Ching Kuo Liu as individual defendants and as co-trustees of the *Liu*
3 *Family Trust*. Plaintiff states that, other than to substitute these defendants, no substantive
4 changes have been made to the original complaint.

5 Pursuant to Local Rule 7-3, defendants' opposition to plaintiff's motion for leave to file
6 an amended complaint was due on October 3. No response has been received. Plaintiff's motion
7 for leave to file the proposed amended complaint is **GRANTED**. Plaintiff may file the proposed
8 amended complaint on the docket. Defendants' motion to dismiss is denied as **MOOT**.

9
10 **IT IS SO ORDERED.**

11
12 Dated: October 9, 2012.



13 WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28